

UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,840	09/19/2000	Edgar B. Cahoon	BB1117 US NA	4919
23906 7.	590 06/18/2002			
E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE			EXAMINER	
			MCELWAIN, ELIZABETH F	
			ART UNIT	PAPER NUMBER
WILMINGTON, DE 19805				TALER NOMBER
			1638	X
			DATE MAILED: 06/18/2002	2

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Office Action Summ ry Examiner Examiner Examiner The MAILING DATE of this communication appears on the cover sheet with the correspondence addr ss- Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filled after SIX (s) MONTHS from the enaling date of this communication. If the period for reply specified above, the maximum statutory minimum of thinty (30) days, a reply within the statutory minimum of thinty (30) days, a reply within the statutory minimum of thinty (30) days will be considered timely. If No period for reply is specified above, the maximum statutory and elements of the reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than there months after the mailing date of this communication. Even of the communication of the provision of the provision of the communication of the provision of the communication. Set 97 CFR 1.704(b). Status 1) Responsive to communication(s) filled on 19 September 2000. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-34 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are ablowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to the that any objection to the drawing(s) be field in abeyance. See 37 CFR 1.85(a). 11) The proposed	The MAILING DATE of this communication at Period for Reply A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR of after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a recommunication of the period for reply is specified above, the maximum statutory period. Failure to reply within the set or extended period for reply will, by statue. Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 19	09/664,840 Examiner Elizabeth McElwain ppears on the cover sheet with the CLY IS SET TO EXPIRE 1 MONT. I. 1.136(a). In no event, however, may a reply be comply within the statutory minimum of thirty (30) d will apply and will expire SIX (6) MONTHS for the, cause the application to become ABANDO	CAHOON ET AL. Art Unit 1638 Correspondence addr ss TH(S) FROM The timely filed days will be considered timely. The communication of this communication. THONED (35 U.S.C. § 133).				
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12) The oath or declaration is objected to by the Examiner.	12) The oath or declaration is objected to by the E	Examiner.					
Priority under 35 U.S.C. §§ 119 and 120	Priority under 35 U.S.C. §§ 119 and 120		•				
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).	13) Acknowledgment is made of a claim for foreign	gn priority under 35 U.S.C. § 11	9(a)-(d) or (f).				
a) All b) Some * c) None of:	a) All b) Some * c) None of:						
 Certified copies of the priority documents have been received. 	1. Certified copies of the priority document	1. Certified copies of the priority documents have been received.					
2. Certified copies of the priority documents have been received in Application No							
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 	application from the International B	Bureau (PCT Rule 17.2(a)).					
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).	14) Acknowledgment is made of a claim for domes	stic priority under 35 U.S.C. § 11	9(e) (to a provisional application).				
a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		• •					
Attachment(s)	_	_					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152) 6) Other:	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Inform					

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

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- I. Claims 1-4, 11, 12 and 17-19, drawn to a delta-5 acyl CoA coding sequence and tranformed cells and seeds and a method of altering the expression of said enzyme in a host cell, classified in class 536, subclass 23.6, for example.
- II. Claim 5 drawn to a delta-5 acyl CoA polypeptide, classified in class 530, subclass 370, for example.
- III. Claims 6-9, 11, 21-24 and 26-27, drawn to a DNA encoding a fatty acyl-CoA elongase coding sequence, and methods of producing seed oil using said coding sequence, classified in class 800, subclass 281, for example.
- IV. Claim 10, drawn to a fatty acyl CoA elongase polypeptide, classified in class530, subclass 370, for example.
- V. Claims 13 and 14 drawn to a seed comprising fatty acids with a double bond in the delta-5 position, classified in class 800, subclass 298, for example.
- VI. Claims 15, 16 and 20, drawn to oil obtained from a seed comprising fatty acids with a double bond in the delta-5 position, classified in class 554, subclass 8, for example.
- VII. Claim 25, drawn to oil with reduced levels of 16 carbon fatty acids, classified in class 562, subclass 598, for example.
- VIII. Claim 30, drawn to oil with increased levels of 20 carbon fatty acids, classified in class 426, subclass 603, for example.

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IX. Claim 31, drawn to a method of obtaining a nucleic acid using SEQ ID NO: 2, 5 or 7, classified in class 800, subclass 264, for example.

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X. Claim 24, drawn to a method of obtaining a nucleic acid by hybridizing with SEQ ID NO: 1, 4 or 6, classified in class 800, subclass 312, for example.

The inventions are distinct, each from the other because:

The inventions of Groups I-X are distinct methods and products given that each method requires different method steps and different components, and each results in the production and isolation of chemically and structurally distinct products. The DNA of Groups I and III encode structurally and functionally different proteins and the proteins of Groups II and IV can be made by a different method than by using the isolated DNA of Groups I and III, such as by extraction from tissue or by chemical synthesis. In addition, oil of each of Groups VI-VIII differs in composition one from each of the others and one does not require any of the others. Furthermore, the seed of Group V can be made by a different method than by use of any of the DNA or proteins of Groups I-IV, such as by breeding. Therefore, each of the products of Groups I-VIII are structurally and functionally distinct. Furthermore, the methods of Groups III-IX and XIV each differ one from the other in that they use different starting materials require different method steps and result in different products. In addition, the methods of Groups IX and X are not required by each other, nor are they required for the production of the claimed products, as each product can be made by an alternative method using different starting materials and different method steps, and one is not required by the other. Thus the

inventions of Groups I-X are each capable of being separately made, independently used and the patentability of one would not render the other obvious or unpatentable.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, their recognized divergent subject matter, and the requirement for different areas of search, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth F. McElwain whose telephone number is (703) 308-1794. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax phone number for this Group is (703) 308-4242. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

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Any inquiry of a general nature or relating to the status of this application should be directed to the legal analyst, Gwendolyn Payne, whose telephone number is (703) 305-2475, or to the Group receptionist whose telephone number is (703) 308-0196.

5 Elizabeth F. McElwain, Ph.D. June 13, 2002

PRIMARY EXAMINER
GROUP 1800

CHA7MEL